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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,559	11/24/2003	Kandukalpatti Chinnaraj Velappan	742429-8	1863
22204	7590	06/30/2006	EXAMINER	
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			TOOMER, CEPHIA D	
			ART UNIT	PAPER NUMBER
			1714	

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/718,559

Applicant(s)

VELAPPAN ET AL.

Examiner

Cephia D. Toomer

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stidham (US 6,127, 560) in view of Srivastava.

Stidham teaches a method for preparing lower alkyl esters of soybean oil fatty acids by an alcoholysis reaction of the soybean fatty acid triglycerides with a lower

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alcohol which comprises the successive steps of:

- a) comminuting the raw soybeans to crack open their hulls and shatter their kernels;
- b) heating the comminuted soybeans in a high-temperature reactor to elevated temperatures in the range of 235 to 350.degree. F.;
- c) maintaining the soybeans at the elevated temperatures for a period of 1 to 60 minutes;
- d) partially removing the oil contained in the soybeans by mechanical means;
- e) degumming the crude soybean oil to reduce the concentration of phospholipid in the oil;
- f) bleaching the degummed soybean oil to further reduce gums and improve color of the oil;
- g) esterifying the fatty acid glycerides of the soybean oil by an alcoholysis reaction with a lower alcohol in the presence of an alkali catalyst to form fatty acid alcohol esters and glycerine, the conversion of the fatty acid glyceride being in the range of 90 to 99.5%
- h) separating the glycerine from the crude fatty acid esterification products by settling or other mechanical means;
- i) washing, in one or more steps, the crude fatty acid esterification products by trickling water through the products and allowing the mix of water and fatty acid esterification products to separate into two phases, washed and purified fatty acid esterification product and a water phase containing water, contaminants such as glycerine and unreacted lower alcohol and impurities from the soybean oil used (see claim 1). The catalyst is sodium hydroxide and the lower alcohol is methanol (see col. 7, lines 31-36).

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Stidham teaches the limitations of the claims other than the differences that are discussed below.

In the first aspect, Stidham differs from the claims in that he does not teach the density and iodine value of the oil. However, Srivastava teaches the soybean oil has a density of 0.91 (Table 7) and an Iodine value of up to 2000 (see page 116, first full paragraph).

In the second aspect, Stidham differs from the claims in that he does not teach all of the process parameters with respect to time and temperature. However, differences in temperature and time will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such parameters are critical.

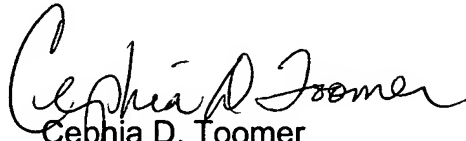
In the third aspect, Stidham differs from the claims in that he does not specifically teach purification by centrifuging. However, Stidham does teach purification by settling or other mechanical means (see claim 1(h)). This teaching suggests centrifuging.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Cephia D. Toomer  
Primary Examiner  
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